

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAMARR ROWELL,

Case No. 3:17-cv-00504-MMD-VPC

Plaintiff,

ORDER

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NEVADA DEPARTMENT OF CORRECTIONS,

Defendant.

16 This is an action initiated by a state prisoner. On October 24, 2017, the Court
17 issued an order directing Plaintiff to file a complaint in this matter. (ECF No. 4 at 1.) After
18 granting Plaintiff an extension of time, the Court ordered Plaintiff to file his complaint on
19 or before November 29, 2017. (ECF No. 6 at 2.) The deadline has now expired, and
20 Plaintiff has not filed a complaint or otherwise responded to the Court's order.

21 District courts have the inherent power to control their dockets and “[i]n the
22 exercise of that power, they may impose sanctions including, where appropriate . . .
23 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
24 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
25 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
26 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
27 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
28 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856

1 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
2 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
3 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
4 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
5 failure to comply with local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey
7 a court order, or failure to comply with local rules, the court must consider several factors:
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
12 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors, the public's interest in
14 expeditiously resolving this litigation and the Court's interest in managing the docket,
15 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
16 in favor of dismissal, since a presumption of injury arises from the occurrence of
17 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
18 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
19 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
20 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
21 the court's order will result in dismissal satisfies the "consideration of alternatives"
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
23 at 1424. The Court's order requiring Plaintiff to file a complaint on or before November
24 29, 2017, expressly stated: "IT IS FURTHER ORDERED that if Plaintiff fails to file a timely
25 civil rights complaint, the Court will dismiss this case without prejudice." (ECF No. 6 at 2.)
26 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance
27 with the Court's order to file a complaint on or before November 29, 2017.

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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file a complaint in compliance with this Court's October 24, 2017, and
3 November 3, 2017, orders.

4 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 1) is
5 denied as moot.

6 It is further ordered that the Clerk of Court enter judgment accordingly.

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8 DATED THIS 11th day of December 2017.



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10 MIRANDA M. DU
11 UNITED STATES DISTRICT JUDGE
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